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PATENT

Attorney Docket No.: 285-113 CON

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(s): Todd M. Boyce et al. EXAMINER: B. Pellegrino

SERIAL NO: 09/745,643 GROUP:3738

FILED: December 22, 2000 DATE: July 16, 2002

FOR: KEYED INTERVERTEBRAL DOCKET: 285-113 CON
DOWEL

Assistant Commissioner for Patents
Washington, D.C. 20231

TERMINAL DISCLAIMER IN ACCORDANCE WITH 37 C.F.R. 1.321(c)

Sir:

I, Peter G. Dilworth, represent that I am the attorney of record for this invention. In an Office Action mailed April 19, 2002, Claims 1, 2, 4, 6, 18, 19 and 24 were rejected under the judicially created doctrine of obviousness-type double patenting over Claims 1-3, 6, 10, 16 and 23 of copending U.S. Application Serial No. 09/328,283.

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postpaid in an envelope, addressed to the: Assistant Commissioner for Patents, Washington, D.C. 20231 on July 16, 2002.

Dated: July 16, 2002


Maria Goldman

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The owner, Osteotech, Inc., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of copending U.S. Application Serial No. 09/328,283, should it issue first as a patent. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent is commonly owned. This agreement runs with any patent on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Enclosed is a check for \$55.00 (small entity) to cover the disclaimer fee under 37 C.F.R.

§ 1.20(d). Please charge any deficiency or credit any overpayment of such fee to Deposit

Account 04-1121.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Peter G. Dilworth", written in a cursive style.

Peter G. Dilworth

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